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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/199,933	11/25/1998	KEVIN T. BURT	1002-124B	4246

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EXAMINER

LAGMAN, FREDERICK LYNDON

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/19/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/199,933

Applicant(s)

Burt

Examiner

Frederick L. Lagman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 10, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. ²³~~24~~ Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis #5,333,971 in view of Lamp #1,066,822 and Berger #5,292,208.

Lewis discloses a retaining panel made from plastics or fiberglass, the panel comprising a central portion 18, first and second side portions 17, and first 14 and second 16 flanges, said first and second flanges including either a male 30 or female 32 connecting portions which allow for connection to a similar adjacent panel. The panel has a substantially uniform thickness, the side portions extend from the central portion at the same angle, the central portion has a substantially level outer surface, the first and second portions having intermediate sections that have substantially level outer surfaces, and the proximal portions of the flanges have substantially level outer surfaces, and wherein the central portion is approximately parallel to the proximal portions of the flanges.

Lewis does not disclose the distal portion of the second flange leveling to being substantially parallel to the proximal portion. Lamp teaches that it is known to extend a distal

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portion at an angle and then to level to be substantially parallel to the proximal portion as set forth at page 1, lines 31-35 and shown in the figure drawing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to level the distal portion so as to be substantially parallel with the proximal portion, as taught by Lamp in order to ensure that two connected flanges are in the same plane.

Lewis does not disclose the second flange defining a substantially T-shaped portion. Berger teaches that it is known to provide a panel having a substantially T-shaped portion 24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a substantially T-shaped portion as taught by Berger, since Berger states at column 2, lines 21-29 that such a modification would facilitate connection of seawall panels. Furthermore, Lewis discloses a female connecting portion that is substantially C-shaped. However, it would have been an obvious matter of design choice to provide a female connecting portion having a C-shape so as to correspond to the T-shaped male connecting portion, since doing so would facilitate and ensure the interlocking of seawall panels.

Lewis as modified by Lamp discloses the claimed invention except for the distance from the female connecting portion to the male connecting portion being at least about 24 inches. It would have been an obvious matter of design choice to make the distance from the female connecting portion to the male connecting portion at least about 24 inches, applicant has not disclosed that the distance between the female connecting portion to the male connecting portion being at least about 24 inches solves any stated problem or is for any particular purpose and it

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appears that the invention would perform equally well with a panel having any desired functional "width".

Response to Arguments

3. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Irvine et al shows a distal portion that extends at an angle then levels to being substantially parallel with the proximal portion. Irvine also shows a seawall panel having T-shaped male connecting portions and C-shaped female connecting portions. Irvine also states that such connectors are old and well known (see figures 1A and 1B).

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick L. Lagman whose telephone number is (703) 305-7456.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Bagnell, can be reached at (703) 308-2151. The fax phone number for this Group is (703) 305-7687.

FLL



November 7, 2001



DAVID BAGNELL
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